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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Federal-State Joint Board on
Universal Service

CC Docket No. 96-45
DA 98-977

AT&T COMMENTS ON MOTION FOR DECLARATORY RULING OR WAIVER

Pursuant to the Commission's Public Notice, DA 98-977, released May 21, 1998, AT&T Corp. ("AT&T") submits these comments in support of the Florida Department of Management Services' ("Florida DMS") May 11, 1998 motion for declaratory ruling or, alternatively, a petition for a waiver of the Commission's rule regarding voluntary extensions of contracts.

In its May 8, 1997 *Universal Service Order*, the Commission concluded that schools and libraries must solicit competitive bids for all services eligible for universal service discounts.¹ The Commission also held that schools and libraries could obtain universal service discounts on certain existing contracts without complying with the competitive bid requirement; however, this

¹ Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9029, para. 480, released May 8, 1997 ("Universal Service Order").

limited exemption does not apply to voluntary extensions of contracts. *Universal Service Order*, para. 545.²

Florida DMS seeks a declaratory ruling that exercise of a renewal option in its existing master contract meets the Commission's definition of an "existing contract" and is not a "voluntary extension" that would trigger a re-bidding requirement in order to obtain universal service discounts. AT&T supports Florida DMS' motion on the narrow facts presented. As Florida DMS explains (at 3), Florida DMS' master contract was competitively bid in accordance with the state's strict statutory and regulatory standards and included a renewal provision as part of the original terms and conditions, a standard procurement practice. Under the Schools and Libraries Corporation's published questions and answers (attached as an exhibit to Florida DMS' motion), exercise of this option would not constitute an "amendment" to the preexisting contract and therefore would not take the contract outside of existing contract treatment.

Moreover, according to the case law cited in Florida DMS' motion (at 5-7), the courts have also

² The Commission subsequently clarified the definition of existing contracts exempt from the competitive bid requirement. See 47 C.F.R. Section 54.511(c)(i), (ii); (d); see also Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Fourth Order on Reconsideration, FCC 97-420, para. 217, released December 30, 1997.

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recognized that exercise of a renewal option in the original contract, of which all bidders had notice, does not constitute initiation of a new contract without competitive bidding. In these circumstances, the Commission should adhere to these state law contract constructions and allow Florida DMS to proceed with its universal service discount application without re-bidding the contract. Indeed, these facts are no different than if Florida DMS had originally signed a contract with a much longer initial term.

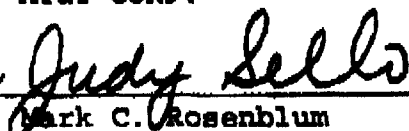
CONCLUSION

For the reasons stated above, the Commission should grant Florida DMS' motion for declaratory ruling.

Respectfully submitted,

AT&T CORP.

By /s/


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June 11, 1998

*AT&T Comments on Motion for
Declaratory Ruling or Waiver*

June 11, 1998

CERTIFICATE OF SERVICE

I, Viola J. Carlone, do hereby certify that on this 11th day of June, 1998, a copy of the foregoing AT&T Comments on Motion for Declaratory Ruling or Waiver was served by U.S. first class mail, postage prepaid, to the parties listed below.

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